

SECOND REGULAR SESSION

SENATE BILL NO. 1212

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CALLAHAN.

Read 1st time February 27, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5321S.011

AN ACT

To repeal sections 160.261, 168.021, 168.071, 168.133, 210.135, 210.915, 210.922, and 556.037, RSMo, and to enact in lieu thereof eleven new sections relating to protecting children from sexual offenders, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 160.261, 168.021, 168.071, 168.133, 210.135, 210.915, 210.922, and 556.037, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 160.085, 160.261, 162.068, 162.069, 168.021, 168.071, 168.133, 210.135, 210.915, 210.922, and 556.037, to read as follows:

160.085. This act shall be known as the "Amy Hestir Davis Student Protection Act".

160.261. 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 2. The policy shall require school administrators to report acts of school
16 violence to teachers and other school district employees with a need to know. For
17 the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as
18 school personnel who are directly responsible for the student's education or who
19 otherwise interact with the student on a professional basis while acting within
20 the scope of their assigned duties. As used in this section, the phrase "act of
21 school violence" or "violent behavior" means the exertion of physical force by a
22 student with the intent to do serious physical injury as defined in subdivision (6)
23 of section 565.002, RSMo, to another person while on school property, including
24 a school bus in service on behalf of the district, or while involved in school
25 activities. The policy shall at a minimum require school administrators to report,
26 as soon as reasonably practical, to the appropriate law enforcement agency any
27 of the following felonies, or any act which if committed by an adult would be one
28 of the following felonies:

- 29 (1) First degree murder under section 565.020, RSMo;
- 30 (2) Second degree murder under section 565.021, RSMo;
- 31 (3) Kidnapping under section 565.110, RSMo;
- 32 (4) First degree assault under section 565.050, RSMo;
- 33 (5) Forcible rape under section 566.030, RSMo;
- 34 (6) Forcible sodomy under section 566.060, RSMo;
- 35 (7) Burglary in the first degree under section 569.160, RSMo;
- 36 (8) Burglary in the second degree under section 569.170, RSMo;
- 37 (9) Robbery in the first degree under section 569.020, RSMo;
- 38 (10) Distribution of drugs under section 195.211, RSMo;
- 39 (11) Distribution of drugs to a minor under section 195.212, RSMo;
- 40 (12) Arson in the first degree under section 569.040, RSMo;
- 41 (13) Voluntary manslaughter under section 565.023, RSMo;
- 42 (14) Involuntary manslaughter under section 565.024, RSMo;
- 43 (15) Second degree assault under section 565.060, RSMo;
- 44 (16) Sexual assault under section 566.040, RSMo;
- 45 (17) Felonious restraint under section 565.120, RSMo;
- 46 (18) Property damage in the first degree under section 569.100, RSMo;
- 47 (19) The possession of a weapon under chapter 571, RSMo;
- 48 (20) Child molestation in the first degree pursuant to section 566.067,
49 RSMo;
- 50 (21) Deviate sexual assault pursuant to section 566.070, RSMo;

51 (22) Sexual misconduct involving a child pursuant to section 566.083,
52 RSMo; or

53 (23) Sexual abuse pursuant to section 566.100, RSMo;
54 committed on school property, including but not limited to actions on any school
55 bus in service on behalf of the district or while involved in school activities. The
56 policy shall require that any portion of a student's individualized education
57 program that is related to demonstrated or potentially violent behavior shall be
58 provided to any teacher and other school district employees who are directly
59 responsible for the student's education or who otherwise interact with the student
60 on an educational basis while acting within the scope of their assigned
61 duties. The policy shall also contain the consequences of failure to obey
62 standards of conduct set by the local board of education, and the importance of
63 the standards to the maintenance of an atmosphere where orderly learning is
64 possible and encouraged.

65 3. The policy shall provide that any student who is on suspension for any
66 of the offenses listed in subsection 2 of this section or any act of violence or
67 drug-related activity defined by school district policy as a serious violation of
68 school discipline pursuant to subsection 9 of this section shall have as a condition
69 of his or her suspension the requirement that such student is not allowed, while
70 on such suspension, to be within one thousand feet of any public school in the
71 school district where such student attended school unless:

72 (1) Such student is under the direct supervision of the student's parent,
73 legal guardian, or custodian;

74 (2) Such student is under the direct supervision of another adult
75 designated by the student's parent, legal guardian, or custodian, in advance, in
76 writing, to the principal of the school which suspended the student;

77 (3) Such student is in an alternative school that is located within one
78 thousand feet of a public school in the school district where such student attended
79 school; or

80 (4) Such student resides within one thousand feet of any public school in
81 the school district where such student attended school in which case such student
82 may be on the property of his or her residence without direct adult supervision.

83 4. Any student who violates the condition of suspension required pursuant
84 to subsection 3 of this section may be subject to expulsion or further suspension
85 pursuant to the provisions of sections 167.161, 167.164, and 167.171, RSMo. In
86 making this determination consideration shall be given to whether the student

87 poses a threat to the safety of any child or school employee and whether such
88 student's unsupervised presence within one thousand feet of the school is
89 disruptive to the educational process or undermines the effectiveness of the
90 school's disciplinary policy. Removal of any pupil who is a student with a
91 disability is subject to state and federal procedural rights.

92 5. The policy shall provide for a suspension for a period of not less than
93 one year, or expulsion, for a student who is determined to have brought a weapon
94 to school, including but not limited to the school playground or the school parking
95 lot, brought a weapon on a school bus or brought a weapon to a school activity
96 whether on or off of the school property in violation of district policy, except that:

97 (1) The superintendent or, in a school district with no high school, the
98 principal of the school which such child attends may modify such suspension on
99 a case-by-case basis; and

100 (2) This section shall not prevent the school district from providing
101 educational services in an alternative setting to a student suspended under the
102 provisions of this section.

103 6. For the purpose of this section, the term "weapon" shall mean a firearm
104 as defined under 18 U.S.C. 921 and the following items, as defined in section
105 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a
106 firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a
107 projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except
108 that this section shall not be construed to prohibit a school board from adopting
109 a policy to allow a Civil War reenactor to carry a Civil War era weapon on school
110 property for educational purposes so long as the firearm is unloaded. The local
111 board of education shall define weapon in the discipline policy. Such definition
112 shall include the weapons defined in this subsection but may also include other
113 weapons.

114 7. All school district personnel responsible for the care and supervision
115 of students are authorized to hold every pupil strictly accountable for any
116 disorderly conduct in school or on any property of the school, on any school bus
117 going to or returning from school, during school-sponsored activities, or during
118 intermission or recess periods.

119 8. Teachers and other authorized district personnel in public schools
120 responsible for the care, supervision, and discipline of schoolchildren, including
121 volunteers selected with reasonable care by the school district, shall not be civilly
122 liable when acting in conformity with the established policy of discipline

123 developed by each board under this section, or when reporting to his or her
124 supervisor or other person as mandated by state law acts of school violence or
125 threatened acts of school violence, within the course and scope of the duties of the
126 teacher, authorized district personnel or volunteer, when such individual is acting
127 in conformity with the established policies developed by the board. Nothing in
128 this section shall be construed to create a new cause of action against such school
129 district, or to relieve the school district from liability for the negligent acts of
130 such persons.

131 9. Each school board shall define in its discipline policy acts of violence
132 and any other acts that constitute a serious violation of that policy. Acts of
133 violence as defined by school boards shall include but not be limited to exertion
134 of physical force by a student with the intent to do serious bodily harm to another
135 person while on school property, including a school bus in service on behalf of the
136 district, or while involved in school activities. School districts shall for each
137 student enrolled in the school district compile and maintain records of any
138 serious violation of the district's discipline policy. Such records shall be made
139 available to teachers and other school district employees with a need to know
140 while acting within the scope of their assigned duties, and shall be provided as
141 required in section 167.020, RSMo, to any school district in which the student
142 subsequently attempts to enroll.

143 10. Spanking, when administered by certificated personnel of a school
144 district in a reasonable manner in accordance with the local board of education's
145 written policy of discipline, is not abuse within the meaning of chapter 210,
146 RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the
147 **children's** division [of family services] shall not have jurisdiction over or
148 investigate any report of alleged child abuse arising out of or related to any
149 spanking administered in a reasonable manner by any certificated school
150 personnel pursuant to a written policy of discipline established by the board of
151 education of the school district. **If a student reports alleged sexual**
152 **misconduct on the part of a teacher or other school employee to a**
153 **mandated reporter as defined in section 210.115, RSMo, the**
154 **superintendent of the school district shall forward the allegation to the**
155 **children's division within twenty-four hours of receiving the**
156 **information.**

157 11. Upon receipt of any reports of child abuse by the **children's** division
158 [of family services] pursuant to sections 210.110 to 210.165, RSMo, which

159 allegedly involves personnel of a school district, the **children's** division [of family
160 services] shall notify the superintendent of schools of the district or, if the person
161 named in the alleged incident is the superintendent of schools, the president of
162 the school board of the school district where the alleged incident occurred.

163 **12.** If, after an initial investigation, the superintendent of schools or the
164 president of the school board finds that the report involves an alleged incident of
165 child abuse other than the administration of a spanking by certificated school
166 personnel pursuant to a written policy of discipline or a report made for the sole
167 purpose of harassing a public school employee, the superintendent of schools or
168 the president of the school board shall immediately refer the matter back to the
169 **children's** division [of family services] and take no further action. In all
170 matters referred back to the **children's** division [of family services], the division
171 [of family services] shall treat the report in the same manner as other reports of
172 alleged child abuse received by the division.

173 **13.** If the report pertains to an alleged incident which arose out of or is
174 related to a spanking administered by certificated personnel of a school district
175 pursuant to a written policy of discipline or a report made for the sole purpose of
176 harassing a public school employee, a notification of the reported child abuse
177 shall be sent by the superintendent of schools or the president of the school board
178 to the juvenile officer of the county in which the alleged incident occurred.

179 **14.** The report shall be jointly investigated by the juvenile officer or a law
180 enforcement officer designated by the juvenile officer and the superintendent of
181 schools or, if the subject of the report is the superintendent of schools, by the
182 juvenile officer or a law enforcement officer designated by the juvenile officer and
183 the president of the school board or such president's designee.

184 **15.** The investigation shall begin no later than forty-eight hours after
185 notification from the **children's** division [of family services] is received, and
186 shall consist of, but need not be limited to, interviewing and recording statements
187 of the child and the child's parents or guardian within two working days after the
188 start of the investigation, of the school district personnel allegedly involved in the
189 report, and of any witnesses to the alleged incident.

190 **16.** The juvenile officer or a law enforcement officer designated by the
191 juvenile officer and the investigating school district personnel shall issue separate
192 reports of their findings and recommendations after the conclusion of the
193 investigation to the school board of the school district within seven days after
194 receiving notice from the **children's** division [of family services].

195 17. The reports shall contain a statement of conclusion as to whether the
196 report of alleged child abuse is substantiated or is unsubstantiated.

197 18. The school board shall consider the separate reports **referred to in**
198 **subsection 16 of this section** and shall issue its findings and conclusions and
199 the action to be taken, if any, within seven days after receiving the last of the two
200 reports. The findings and conclusions shall be made in substantially the
201 following form:

202 (1) The report of the alleged child abuse is unsubstantiated. The juvenile
203 officer or a law enforcement officer designated by the juvenile officer and the
204 investigating school board personnel agree that [the evidence shows that no]
205 **there was not a preponderance of evidence to substantiate that** abuse
206 occurred;

207 (2) The report of the alleged child abuse is substantiated. The juvenile
208 officer or a law enforcement officer designated by the juvenile officer and the
209 investigating school district personnel agree that the **preponderance of**
210 evidence is sufficient to support a finding that the alleged incident of child abuse
211 did occur;

212 (3) The issue involved in the alleged incident of child abuse is
213 unresolved. The juvenile officer or a law enforcement officer designated by the
214 juvenile officer and the investigating school personnel are unable to agree on
215 their findings and conclusions on the alleged incident.

216 [11.] 19. The findings and conclusions of the school board **under**
217 **subsection 18 of this section** shall be sent to the **children's** division [of
218 family services]. If the findings and conclusions of the school board are that the
219 report of the alleged child abuse is unsubstantiated, the investigation shall be
220 terminated, the case closed, and no record shall be entered in the **children's**
221 division [of family services'] central registry **unless the allegations contain**
222 **an element of sexual misconduct, in which case the record of the**
223 **allegations and the report of it being unsubstantiated shall be retained**
224 **in a closed record.** If the findings and conclusions of the school board are that
225 the report of the alleged child abuse is substantiated, the **children's** division [of
226 family services] shall report the incident to the prosecuting attorney of the
227 appropriate county along with the findings and conclusions of the school district
228 and shall include the information in the division's central registry. If the
229 findings and conclusions of the school board are that the issue involved in the
230 alleged incident of child abuse is unresolved, the **children's** division [of family

231 services] shall report the incident to the prosecuting attorney of the appropriate
232 county along with the findings and conclusions of the school board[,]; however,
233 the incident and the names of the parties allegedly involved shall not be entered
234 into the **division's** central registry [of the division of family services] unless and
235 until the alleged child abuse is substantiated by a court of competent jurisdiction
236 **except if the allegations contain an element of sexual misconduct, in**
237 **which case the record of the allegations and the report of it being**
238 **unresolved shall be retained in a closed record.**

239 [12.] **20.** Any superintendent of schools, president of a school board or
240 such person's designee or juvenile officer who knowingly falsifies any report of
241 any matter pursuant to this section or who knowingly withholds any information
242 relative to any investigation or report pursuant to this section is guilty of a class
243 A misdemeanor.

244 [13.] **21.** In order to ensure the safety of all students, should a student
245 be expelled for bringing a weapon to school, violent behavior, or for an act of
246 school violence, that student shall not, for the purposes of the accreditation
247 process of the Missouri school improvement plan, be considered a dropout or be
248 included in the calculation of that district's educational persistence ratio.

162.068. 1. Beginning July 1, 2009, for any employee who is
2 **required under section 168.133, RSMo, to undergo a background check**
3 **and register with the family care safety registry, a school district shall**
4 **include in the employment application a waiver that, when signed by**
5 **the applicant, will permit the school district to access any closed**
6 **records relating to the applicant in the child abuse registry. The**
7 **department of social services shall develop the waiver form and**
8 **cooperate with the department of elementary and secondary education**
9 **to ensure its distribution for use by school districts. No applicant for**
10 **employment shall be required to sign the waiver to be considered for**
11 **employment.**

12 **2. By July 1, 2009, every school district shall adopt a written**
13 **policy on information that the district provides about former**
14 **employees, both certificated and noncertificated, to other potential**
15 **employers. The policy shall include who is permitted to respond to**
16 **requests for information from potential employers, and the policy shall**
17 **include a provision that allows employees to indicate whether they will**
18 **permit employee evaluation information and reasons for termination**

19 to be communicated to potential employers. The policy shall require
20 that notice of this provision be provided to all current employees and
21 to all potential employers who contact the school district regarding the
22 possible employment of a school district employee.

23 3. Any school district employee who reports on or discusses
24 employee job performance for the purposes of making employment
25 decisions that affect the safety and overall well-being of student or
26 students and who does so in conformity with district policy, in good
27 faith, and without malice shall not be subject to an action for civil
28 damages as a result thereof, and no cause of action shall arise against
29 him or her as a result of his or her conduct under this section. The
30 attorney general shall defend such persons in any such action or
31 proceeding, except that if the attorney general represents the school
32 district or the department of elementary and secondary education in
33 a pending licensing matter under section 168.071, RSMo, the attorney
34 general shall not represent the school district employee.

162.069. 1. Every school district shall, by January 1, 2009,
2 promulgate a written policy concerning teacher-student communication
3 and employee-student communication. Such policy shall contain at
4 least the following elements:

5 (1) Appropriate oral and nonverbal personal communication,
6 which may be combined with or included in any policy on sexual
7 harassment; and

8 (2) Appropriate use of electronic media such as text messaging
9 and Internet sites for both instructional and personal purposes, with
10 an element concerning use of social networking sites no less stringent
11 than the provisions of subsections 2, 3, and 4 of this section.

12 2. As used in this section, the following terms shall mean:

13 (1) "Exclusive access", the information on the web site is
14 available only to the owner (teacher) and user (student) by mutual
15 explicit consent and where third parties have no access to the
16 information on the web site absent an explicit consent agreement with
17 the owner (teacher);

18 (2) "Former student", any person who was at one time a student
19 at the school at which the teacher is employed and who is eighteen
20 years of age or less and who has not graduated;

21 (3) "Nonwork-related Internet site", any Internet web site or web

22 **pages used by a teacher primarily for personal purposes and not for**
23 **educational purposes;**

24 **(4) "Work-related Internet site", any Internet web site or web**
25 **pages used by a teacher for educational purposes.**

26 **3. No teacher shall establish, maintain, or use a work-related**
27 **Internet site unless such site is publically available on at least one open**
28 **access network.**

29 **4. No teacher shall establish, maintain, or use a nonwork-related**
30 **Internet site which allows exclusive access with a current or former**
31 **student.**

32 **5. Every school district shall, by July 1, 2009, include in its**
33 **teacher and employee training, a component that provides up-to-date**
34 **and reliable information on identifying signs of sexual abuse in**
35 **children and danger signals of potentially abusive relationships**
36 **between children and adults. The training shall emphasize the**
37 **importance of mandatory reporting of abuse under section 210.115,**
38 **RSMo, and how to establish an atmosphere of trust so that students feel**
39 **their school has concerned adults with whom they feel comfortable**
40 **discussing matters related to abuse.**

168.021. 1. Certificates of license to teach in the public schools of the
2 state shall be granted as follows:

3 (1) By the state board, under rules and regulations prescribed by it,

4 (a) Upon the basis of college credit;

5 (b) Upon the basis of examination;

6 (2) By the state board, under rules and regulations prescribed by the state
7 board with advice from the advisory council established by section 168.015 to any
8 individual who presents to the state board a valid doctoral degree from an
9 accredited institution of higher education accredited by a regional accrediting
10 association such as North Central Association. Such certificate shall be limited
11 to the major area of postgraduate study of the holder, shall be issued only after
12 successful completion of the examination required for graduation pursuant to
13 rules adopted by the state board of education, and shall be restricted to those
14 certificates established pursuant to subdivision (1) of subsection 3 of this section;
15 or

16 (3) By the state board, which shall issue the professional certificate
17 classification in both the general and specialized areas most closely aligned with

18 the current areas of certification approved by the state board, commensurate with
19 the years of teaching experience of the applicant, and based upon the following
20 criteria:

21 (a) Recommendation of a state-approved baccalaureate-level teacher
22 preparation program;

23 (b) Successful attainment of the Missouri qualifying score on the exit
24 assessment for teachers or administrators designated by the state board of
25 education. Applicants who have not successfully achieved a qualifying score on
26 the designated examinations will be issued a two-year nonrenewable provisional
27 certificate; and

28 (c) Upon completion of a background check **as prescribed in section**
29 **168.133** and possession of a valid teaching certificate in the state from which the
30 applicant's teacher preparation program was completed.

31 2. All valid teaching certificates issued pursuant to law or state board
32 policies and regulations prior to September 1, 1988, shall be exempt from the
33 professional development requirements of this section and shall continue in effect
34 until they expire, are revoked or suspended, as provided by law. When such
35 certificates are required to be renewed, the state board or its designee shall grant
36 to each holder of such a certificate the certificate most nearly equivalent to the
37 one so held. Anyone who holds, as of August 28, 2003, a valid PC-I, PC-II, or
38 continuous professional certificate shall, upon expiration of his or her current
39 certificate, be issued the appropriate level of certificate based upon the
40 classification system established pursuant to subsection 3 of this section.

41 3. Certificates of license to teach in the public schools of the state shall
42 be based upon minimum requirements prescribed by the state board of education
43 **which shall include successful completion of a background check as**
44 **prescribed in section 168.133.** The state board shall provide for the following
45 levels of professional certification: an initial professional certificate and a career
46 continuous professional certificate.

47 (1) The initial professional certificate shall be issued upon completion of
48 requirements established by the state board of education and shall be valid based
49 upon verification of actual teaching within a specified time period established by
50 the state board of education. The state board shall require holders of the
51 four-year initial professional certificate to:

52 (a) Participate in a mentoring program approved and provided by the
53 district for a minimum of two years;

54 (b) Complete thirty contact hours of professional development, which may
55 include hours spent in class in an appropriate college curriculum; and

56 (c) Participate in a beginning teacher assistance program;

57 (2) (a) The career continuous professional certificate shall be issued upon
58 verification of completion of four years of teaching under the initial professional
59 certificate and upon verification of the completion of the requirements articulated
60 in paragraphs (a), (b), and (c) of subdivision (1) of this subsection.

61 (b) The career continuous professional certificate shall be continuous
62 based upon verification of actual employment in an educational position as
63 provided for in state board guidelines and completion of fifteen contact hours of
64 professional development per year which may include hours spent in class in an
65 appropriate college curriculum. Should the possessor of a valid career continuous
66 professional certificate fail, in any given year, to meet the fifteen-hour
67 professional development requirement, the possessor may, within two years, make
68 up the missing hours. In order to make up for missing hours, the possessor shall
69 first complete the fifteen-hour requirement for the current year and then may
70 count hours in excess of the current year requirement as make-up hours. Should
71 the possessor fail to make up the missing hours within two years, the certificate
72 shall become inactive. In order to reactivate the certificate, the possessor shall
73 complete twenty-four contact hours of professional development which may
74 include hours spent in the classroom in an appropriate college curriculum within
75 the six months prior to or after reactivating his or her certificate. The
76 requirements of this paragraph shall be monitored and verified by the local school
77 district which employs the holder of the career continuous professional certificate.

78 (c) A holder of a career continuous professional certificate shall be exempt
79 from the professional development contact hour requirements of paragraph (b) of
80 this subdivision if such teacher has a local professional development plan in place
81 within such teacher's school district and meets two of the three following criteria:

82 a. Has ten years of teaching experience as defined by the state board of
83 education;

84 b. Possesses a master's degree; or

85 c. Obtains a rigorous national certification as approved by the state board
86 of education.

87 4. Policies and procedures shall be established by which a teacher who
88 was not retained due to a reduction in force may retain the current level of
89 certification. There shall also be established policies and procedures allowing a

90 teacher who has not been employed in an educational position for three years or
91 more to reactivate his or her last level of certification by completing twenty-four
92 contact hours of professional development which may include hours spent in the
93 classroom in an appropriate college curriculum within the six months prior to or
94 after reactivating his or her certificate.

95 5. The state board shall, upon [an appropriate] **completion of a**
96 **background check as prescribed in section 168.133**, issue a professional
97 certificate classification in the areas most closely aligned with an applicant's
98 current areas of certification, commensurate with the years of teaching experience
99 of the applicant, to any person who is hired to teach in a public school in this
100 state and who possesses a valid teaching certificate from another state, provided
101 that the certificate holder shall annually complete the state board's requirements
102 for such level of certification, and shall establish policies by which residents of
103 states other than the state of Missouri may be assessed a fee for a certificate
104 license to teach in the public schools of Missouri. Such fee shall be in an amount
105 sufficient to recover any or all costs associated with the issuing of a certificate of
106 license to teach.

107 6. The state board may assess to holders of an initial professional
108 certificate a fee, to be deposited into the excellence in education revolving fund
109 established pursuant to section 160.268, RSMo, for the issuance of the career
110 continuous professional certificate. However, such fee shall not exceed the
111 combined costs of issuance and any criminal background check required as a
112 condition of issuance.

113 7. Any member of the public school retirement system of Missouri who
114 entered covered employment with ten or more years of educational experience in
115 another state or states and held a certificate issued by another state and
116 subsequently worked in a school district covered by the public school retirement
117 system of Missouri for ten or more years who later became certificated in
118 Missouri shall have that certificate dated back to his or her original date of
119 employment in a Missouri public school.

168.071. 1. The state board of education may refuse to issue or renew a
2 certificate, or may, upon hearing, discipline the holder of a certificate of license
3 to teach for the following causes:

4 (1) A certificate holder or applicant for a certificate has pleaded to or been
5 found guilty of a felony or crime involving moral turpitude under the laws of this
6 state, any other state, of the United States, or any other country, whether or not

7 sentence is imposed;

8 (2) The certification was obtained through use of fraud, deception,
9 misrepresentation or bribery;

10 (3) There is evidence of incompetence, immorality, or neglect of duty by
11 the certificate holder;

12 (4) A certificate holder has been subject to disciplinary action relating to
13 certification issued by another state, territory, federal agency, or country upon
14 grounds for which discipline is authorized in this section; or

15 (5) If charges are filed by the local board of education, based upon the
16 annulling of a written contract with the local board of education, for reasons other
17 than election to the general assembly, without the consent of the majority of the
18 members of the board that is a party to the contract.

19 2. A public school district may file charges seeking the discipline of a
20 holder of a certificate of license to teach based upon any cause or combination of
21 causes outlined in subsection 1 of this section, including annulment of a written
22 contract. Charges shall be in writing, specify the basis for the charges, and be
23 signed by the chief administrative officer of the district, or by the president of the
24 board of education as authorized by a majority of the board of education. The
25 board of education may also petition the office of the attorney general to file
26 charges on behalf of the school district for any cause other than annulment of
27 contract, with acceptance of the petition at the discretion of the attorney general.

28 3. The department of elementary and secondary education may file
29 charges seeking the discipline of a holder of a certificate of license to teach based
30 upon any cause or combination of causes outlined in subsection 1 of this section,
31 other than annulment of contract. Charges shall be in writing, specify the basis
32 for the charges, and be signed by legal counsel representing the department of
33 elementary and secondary education.

34 4. If the underlying conduct or actions which are the basis for charges
35 filed pursuant to this section are also the subject of a pending criminal charge
36 against the person holding such certificate, the certificate holder may request, in
37 writing, a delayed hearing on advice of counsel under the fifth amendment of the
38 Constitution of the United States. Based upon such a request, no hearing shall
39 be held until after a trial has been completed on this criminal charge.

40 5. The certificate holder shall be given not less than thirty days' notice of
41 any hearing held pursuant to this section.

42 6. Other provisions of this section notwithstanding, the certificate of

43 license to teach shall be revoked or, in the case of an applicant, a certificate shall
44 not be issued, if the certificate holder or applicant has pleaded guilty to or been
45 found guilty of any of the following offenses established pursuant to Missouri law
46 or offenses of a similar nature established under the laws of any other state or
47 of the United States, or any other country, whether or not the sentence is
48 imposed:

49 (1) Any dangerous felony as defined in section 556.061, RSMo, or murder
50 in the first degree **under section 565.020, RSMo;**

51 (2) Any of the following sexual offenses: rape **under section 566.030,**
52 **RSMo;** statutory rape in the first degree **under section 566.032, RSMo;**
53 statutory rape in the second degree **under section 566.034, RSMo;** sexual
54 assault **under section 566.040, RSMo;** forcible sodomy **under section**
55 **566.060, RSMo;** statutory sodomy in the first degree **under section 566.062,**
56 **RSMo;** statutory sodomy in the second degree **under section 566.064, RSMo;**
57 child molestation in the first degree **under section 566.067, RSMo;** child
58 molestation in the second degree **under section 566.068, RSMo;** deviate sexual
59 assault **under section 566.070, RSMo;** sexual misconduct involving a child
60 **under section 566.083, RSMo;** sexual contact with a student while on
61 **public school property under section 566.086, RSMo;** sexual misconduct in
62 the first degree **under section 566.090, RSMo;** sexual misconduct in the
63 **second degree under section 566.093, RSMo;** sexual misconduct in the
64 **third degree under section 566.095, RSMo;** sexual abuse **under section**
65 **565.100, RSMo;** enticement of a child **under section 566.151, RSMo;** or
66 attempting to entice a child;

67 (3) Any of the following offenses against the family and related offenses:
68 incest **under section 568.020, RSMo;** abandonment of child in the first degree
69 **under section 568.030, RSMo;** abandonment of child in the second degree
70 **under section 568.032, RSMo;** endangering the welfare of a child in the first
71 degree **under section 568.045, RSMo;** abuse of a child **under section 568.060,**
72 **RSMo;** child used in a sexual performance **under section 568.080, RSMo;**
73 promoting sexual performance by a child **under section 568.090, RSMo;** or
74 trafficking in children **under section 568.175, RSMo;** and

75 (4) Any of the following offenses involving child pornography and related
76 offenses: promoting obscenity in the first degree **under section 573.020, RSMo;**
77 promoting obscenity in the second degree when the penalty is enhanced to a class
78 D felony **under section 573.030, RSMo;** promoting child pornography in the

79 first degree **under section 573.025, RSMo**; promoting child pornography in the
80 second degree **under section 573.035, RSMo**; possession of child pornography
81 [in the first degree] **under section 573.037, RSMo**; [possession of child
82 pornography in the second degree; furnishing child pornography to a
83 minor;] furnishing pornographic materials to minors **under section 573.040,**
84 **RSMo**; or coercing acceptance of obscene material **under section 573.065,**
85 **RSMo.**

86 7. When a certificate holder pleads guilty or is found guilty of any offense
87 that would authorize the state board of education to seek discipline against that
88 holder's certificate of license to teach, the local board of education or the
89 department of elementary and secondary education shall immediately provide
90 written notice to the state board of education and the attorney general regarding
91 the plea of guilty or finding of guilty.

92 8. The certificate holder whose certificate was revoked pursuant to
93 subsection 6 of this section may appeal such revocation to the state board of
94 education. Notice of this appeal must be received by the commissioner of
95 education within ninety days of notice of revocation pursuant to this
96 subsection. Failure of the certificate holder to notify the commissioner of the
97 intent to appeal waives all rights to appeal the revocation. Upon notice of the
98 certificate holder's intent to appeal, an appeal hearing shall be held by a hearing
99 officer designated by the commissioner of education, with the final decision made
100 by the state board of education, based upon the record of that hearing. The
101 certificate holder shall be given not less than thirty days' notice of the hearing,
102 and an opportunity to be heard by the hearing officer, together with witnesses.

103 9. In the case of any certificate holder who has surrendered or failed to
104 renew his or her certificate of license to teach, the state board of education may
105 refuse to issue or renew, or may suspend or revoke, such certificate for any of the
106 reasons contained in this section.

107 10. In those cases where the charges filed pursuant to this section are
108 based upon an allegation of misconduct involving a minor child, the hearing
109 officer may accept into the record the sworn testimony of the minor child relating
110 to the misconduct received in any court or administrative hearing.

111 11. Hearings, appeals or other matters involving certificate holders,
112 licensees or applicants pursuant to this section may be informally resolved by
113 consent agreement or agreed settlement or voluntary surrender of the certificate
114 of license pursuant to the rules promulgated by the state board of education.

115 12. The final decision of the state board of education is subject to judicial
116 review pursuant to sections 536.100 to 536.140, RSMo.

117 13. A certificate of license to teach to an individual who has been
118 convicted of a felony or crime involving moral turpitude, whether or not sentence
119 is imposed, shall be issued only upon motion of the state board of education
120 adopted by a unanimous affirmative vote of those members present and voting.

 168.133. 1. The school district shall ensure that a criminal background
2 check is conducted on any person employed after January 1, 2005, authorized to
3 have contact with pupils and prior to the individual having contact with any
4 pupil. Such persons include, but are not limited to, administrators, teachers,
5 aides, paraprofessionals, assistants, secretaries, custodians, cooks, and
6 nurses. The school district shall also ensure that a criminal background check
7 is conducted for school bus drivers. The district may allow such drivers to
8 operate buses pending the result of the criminal background check. For bus
9 drivers, the background check shall be conducted on drivers employed by the
10 school district or employed by a pupil transportation company under contract
11 with the school district. **Personnel who have successfully undergone a
12 criminal background check and a check of the family care safety
13 registry as part of the professional license application process under
14 section 168.021 and who have received clearance on the checks within
15 the past year shall be considered to have completed the background
16 check requirement.**

17 2. In order to facilitate the criminal history background check on any
18 person employed after January 1, 2005, the applicant shall submit two sets of
19 fingerprints collected pursuant to standards determined by the Missouri highway
20 patrol. One set of fingerprints shall be used by the highway patrol to search the
21 criminal history repository [and the family care safety registry pursuant to
22 sections 210.900 to 210.936, RSMo,] and the second set shall be forwarded to the
23 Federal Bureau of Investigation for searching the federal criminal history files.
24 **In addition to the state and federal criminal background check, any
25 employee employed after January 1, 2009, and required by the
26 provisions of subsection 1 of this section to undergo a criminal
27 background check shall be required to register with the family care
28 safety registry under the provisions of sections 210.900 to 210.936,
29 RSMo, and to be cleared through its database.**

30 3. The applicant shall pay the fee for the state criminal history record

31 information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936,
32 RSMo, and pay the appropriate fee determined by the Federal Bureau of
33 Investigation for the federal criminal history record when he or she applies for
34 a position authorized to have contact with pupils pursuant to this section. The
35 department shall distribute the fees collected for the state and federal criminal
36 histories to the Missouri highway patrol.

37 **4. The highway patrol, the department of health and senior**
38 **services, the department of social services, and the department of**
39 **elementary and secondary education shall develop procedures that**
40 **permit an annual check of employed persons holding current active**
41 **certificates under section 168.021 against criminal history records in**
42 **the central repository under section 43.530, RSMo, and the family care**
43 **safety registry under sections 210.900 to 210.936, RSMo. The**
44 **department of elementary and secondary education shall facilitate the**
45 **development of procedures for school districts to submit personnel**
46 **information annually for persons employed by the school districts who**
47 **do not hold a current valid certificate who are required by subsection**
48 **1 of this section to undergo a criminal background check, and family**
49 **care safety registry check.**

50 **5.** The school district may adopt a policy to provide for reimbursement of
51 expenses incurred by an employee for state and federal criminal history
52 information pursuant to section 43.530, RSMo.

53 **[5.] 6.** If, as a result of the criminal history background check mandated
54 by this section, it is determined that the holder of a certificate issued pursuant
55 to section 168.021 has pled guilty or nolo contendere to, or been found guilty of
56 a crime or offense listed in section 168.071, or a similar crime or offense
57 committed in another state, the United States, or any other country, regardless
58 of imposition of sentence, such information shall be reported to the department
59 of elementary and secondary education.

60 **[6.] 7.** Any school official making a report to the department of
61 elementary and secondary education in conformity with this section shall not be
62 subject to civil liability for such action.

63 **[7.] 8.** For any teacher who is employed by a school district on a
64 substitute or part-time basis within one year of such teacher's retirement from
65 a Missouri school, the state of Missouri shall not require such teacher to be
66 subject to any additional background checks prior to having contact with

67 pupils. Nothing in this subsection shall be construed as prohibiting or otherwise
68 restricting a school district from requiring additional background checks for such
69 teachers employed by the school district.

70 [8.] 9. Nothing in this section shall be construed to alter the standards
71 for suspension, denial, or revocation of a certificate issued pursuant to this
72 chapter.

73 [9.] 10. The state board of education may promulgate rules for criminal
74 history background checks made pursuant to this section. Any rule or portion of
75 a rule, as that term is defined in section 536.010, RSMo, that is created under the
76 authority delegated in this section shall become effective only if it complies with
77 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
78 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
79 and if any of the powers vested with the general assembly pursuant to chapter
80 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
81 rule are subsequently held unconstitutional, then the grant of rulemaking
82 authority and any rule proposed or adopted after January 1, 2005, shall be
83 invalid and void.

210.135. 1. Any person, official, or institution complying with the
2 provisions of sections 210.110 to 210.165 in the making of a report, the taking of
3 color photographs, or the making of radiologic examinations pursuant to sections
4 210.110 to 210.165, or both such taking of color photographs and making of
5 radiologic examinations, or the removal or retaining a child pursuant to sections
6 210.110 to 210.165, or in cooperating with the division, or any other law
7 enforcement agency, juvenile office, court, or child-protective service agency of
8 this or any other state, in any of the activities pursuant to sections 210.110 to
9 210.165, or any other allegation of child abuse, neglect or assault, pursuant to
10 sections 568.045 to 568.060, RSMo, shall have immunity from any liability, civil
11 or criminal, that otherwise might result by reason of such actions. Provided,
12 however, any person, official or institution intentionally filing a false report,
13 acting in bad faith, or with ill intent, shall not have immunity from any liability,
14 civil or criminal. Any such person, official, or institution shall have the same
15 immunity with respect to participation in any judicial proceeding resulting from
16 the report.

17 2. Any person, who is not a school district employee, who makes
18 a report to a school administrator of child abuse by a school employee
19 shall have immunity from any liability, civil or criminal, that otherwise

20 **might result because of such report. Provided, however, that any such**
21 **person who makes a false report, knowing that the report is false, or**
22 **who acts in bad faith or with ill intent in making such report shall not**
23 **have immunity from any liability, civil or criminal. Any such person**
24 **shall have the same immunity with respect to participation in any**
25 **judicial proceeding resulting from the report.**

210.915. The department of corrections, the department of public safety,
2 the department of social services, **the department of elementary and**
3 **secondary education**, and the department of mental health shall collaborate
4 with the department to compare records on child-care, elder-care and
5 personal-care workers, **including those individuals required to undergo a**
6 **background check under the provisions of section 168.133, RSMo**, and
7 the records of persons with criminal convictions and the background checks
8 pursuant to subdivisions (1) to (6) of subsection 2 of section 210.903, and to enter
9 into any interagency agreements necessary to facilitate the receipt of such
10 information and the ongoing updating of such information. The department shall
11 promulgate rules and regulations concerning such updating, including subsequent
12 background reviews as listed in subsection 1 of section 210.909.

210.922. The department of health and senior services, department of
2 mental health, **department of elementary and secondary education**, and
3 department of social services may use the registry information to carry out the
4 duties assigned to the department pursuant to this chapter and chapters **168**,
5 **190, 195, 197, 198, 630, and 660, RSMo.**

556.037. Notwithstanding the provisions of section 556.036, prosecutions
2 for unlawful sexual offenses involving a person eighteen years of age or under
3 **[must] may** be commenced **[within twenty years after the victim reaches the age**
4 **of eighteen unless the prosecutions are for forcible rape, attempted forcible rape,**
5 **forcible sodomy, kidnapping, or attempted forcible sodomy in which case such**
6 **prosecutions may be commenced]** at any time.

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